

### REMARKS/ARGUMENTS

By the foregoing amendment, claims 1, 6, 9-17, 25-29, 32, 33, 52 and 53 have been amended and claims 2, 3, 18-24, 30 and 31 have been cancelled. Support for the amended claims is found throughout the specification including Figure 2 and a detailed description thereof. No new matter has been added. Reconsideration is requested.

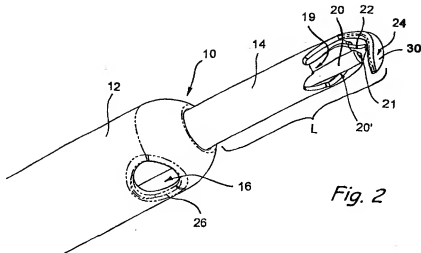
#### Rejections under 35 U.S.C. 112

In the Office Action, claim 24 was rejected under 35 U.S.C. 112 as indefinite. By the foregoing amendment, claim 24 has been cancelled, thereby rendering this stated rejection moot.

#### 35 U.S.C. §102/103 Rejections

Also in the Office Action, all claims were rejected under 35 U.S.C. 102 and/or 103 as being anticipated by and/or obvious over one or more of Baerveldt et al., Wallace, Vassiliadis, Cook et al. and Eichenbaum.

An example of Applicant's invention, as presently claimed, is shown in Figure 2 of the present application, which is reproduced below:



As presently amended, independent claim 1 recites a device for cutting or ablating tissue in a human or veterinary patient, comprising (a) an elongate probe having a distal end, said elongate

probe comprising an outer tube that has a longitudinal axis, lumen and a distal end and an inner tube that has a longitudinal axis, a lumen, a distal portion, an outer surface and a distal opening, said inner tube extending through the lumen of the outer tube such that the distal portion of the of the inner tube extends out of and beyond the distal end of the outer tube, the distal end of the outer tube being sealed about the outer surface of the inner tube, there being an aperture formed in a side of the outer tube, (b) a protector on the portion of the inner tube that extends out of and beyond the distal end of the inner tube said protector extending at an angle relative to the longitudinal axis of the inner tube, said protector having a first side and a second side and (c) an energy emitting member that extends through the lumen of the inner tube and out of the distal opening of the inner tube, said energy emitting member being operative to emit tissue cutting or ablating energy at a location between the distal opening of the inner tube and the first side of the protector, (d) said protector being positionable such that tissue that is to be cut or ablated by the emitted energy is adjacent to the first side of the protector and tissue that is to be protected is adjacent to the second side of the protector, said protector being at least partially formed of an insulating material to deter thermal damage to tissue located adjacent to the second side of the protector when the energy emitting member is emitting tissue cutting or ablation energy. Clearly, none of the cited Baerveldt et al., Wallace, Vassiliadis, Cook et al. or Eichenbaum references describes or suggests this novel combination of elements. Thus, independent claim 1 and all dependent claims are believed to be allowable over Baerveldt et al., Wallace, Vassiliadis, Cook et al. and Eichenbaum alone or in combination.

### Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and issuance of a notice of allowance is earnestly solicited. A three month extension is requested under 37 C.F.R. 1.136 and the Director is authorized to deduct the small entity fee for such extension as well as any other fee properly deemed to be due from Deposit Account No. 50-0878. If the Examiner feels that a telephone conference would in

any way expedite the prosecution of the application, the Examiner is encouraged to call Applicant's undersigned counsel.

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Respectfully submitted,

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